

---

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

---

UNITED STATES OF AMERICA,  
  
Plaintiff,

v.

MILLARD J. LONKEY, JR.,  
  
Defendant.

**MEMORANDUM DECISION AND  
ORDER DENYING MOTION FOR  
RECONSIDERATION**

Case No. 2:15-cr-00368-DN

District Judge David Nuffer

---

Defendant filed a pro se Motion for Relief Under the First Step Act seeking a reduction of his sentence or compassionate release.<sup>1</sup> Defendant's motion was denied because Defendant's circumstances do not constitute extraordinary and compelling reasons to warrant relief under the First Step Act.<sup>2</sup> Defendant now seek reconsideration of the denial<sup>3</sup> and explanation of why a hearing was not held.<sup>4</sup>

Defendant argues that his prior reply memorandum<sup>5</sup> must be considered, and that his circumstances must be considered in light of the current COVID-19 pandemic.<sup>6</sup> However, Defendant's reply memorandum merely restates the arguments made in his Motion for Relief Under the First Step Act. Nothing in the reply memorandum changes the analysis that resulted in the denial of Defendant's Motion for Relief Under the First Step Act.

---

<sup>1</sup> [Docket no. 27](#), filed Mar. 9, 2020.

<sup>2</sup> Memorandum Decision and Order Denying Motion for Compassionate Release, [docket no. 33](#), filed Apr. 3, 2020.

<sup>3</sup> Motion for Reconsideration, [docket no. 35](#), filed Apr. 27, 2020.

<sup>4</sup> Demand for Findings of Fact and Conclusion of Law in Re: Original Motion for Reduction of Sentence, [docket no. 36](#), filed Apr. 27, 2020.

<sup>5</sup> Rebuttal to Plaintiff's Petition to Object, [docket no. 34](#), Apr. 6, 2020.

<sup>6</sup> Motion for Reconsideration at 1-3.

Additionally, even in light of the current COVID-19 pandemic, Defendant's medical conditions—considered individually or collectively—do not rise to the level of warranting relief under the First Step Act for serious physical or medical conditions; suffering from a serious functional impairment; or deteriorating physical health that substantially diminish Defendant's ability to provide self-care within a correctional facility. Defendant concedes that these conditions are being treated at his correctional facility.<sup>7</sup> And these type of allegations are more appropriately the subject of an action challenging Defendant's conditions of confinement, rather than a motion for reduction of sentence or compassionate release for extraordinary and compelling reasons under the First Step Act.

Defendant also does not meet the age-based factors for extraordinary and compelling reasons to warrant relief. Defendant's medical conditions do not rise to the level of serious deterioration in physical health because of the aging process. And Defendant has not served at least 10 years or 75 percent of his prison term.

These findings and conclusions were included in the denial of Defendant's Motion for Relief Under the First Step Act.<sup>8</sup> Therefore, reconsideration of the Defendant's Motion for Relief Under the First Step Act is not warranted, and further explanation is unnecessary.

---

<sup>7</sup> Motion for Relief Under the First Step Act at 2.

<sup>8</sup> Memorandum Decision and Order Denying Motion for Compassionate Release at 3-5.

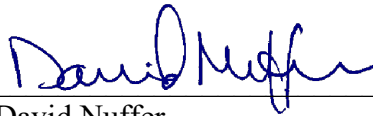
**ORDER**

IT IS HEREBY ORDERED that Defendant's Motion for Reconsideration<sup>9</sup> is DENIED.

IT IS FURTHER HEREBY ORDERED that Defendant's Demand for Findings of Fact and Conclusion of Law in Re: Original Motion for Reduction of Sentence<sup>10</sup> is DENIED.

Signed April 29, 2020.

BY THE COURT

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer  
United States District Judge

---

<sup>9</sup> [Docket no. 35](#), filed Apr. 27, 2020.

<sup>10</sup> [Docket no. 36](#), filed Apr. 27, 2020.